

Racism, Law, and the Social Sciences

Laws 54303, Anth 55502, LLSO 24303, Winter, 2023

Prof. Christopher Fennell

Course Objectives

The domains of racism, law, and the social sciences impact one another in myriad ways. At times, a system of racism is deployed through law, which in turn shapes questions asked in the social sciences. In other instances, the sciences articulate conceptual frameworks that lead to the creation of new forms of racism within society and law. Particular systems of racism have operated across a spectrum from incidents of overt violence to the daily impacts of implicit biases. Our readings and class discussions will consider a sample of case studies from across the globe in addition to past and present dynamics in the United States. Analyses of the social construction of racial and ethnic identities have facilitated studies of the ways in which social differences are created, maintained, and masked. Subjects to be addressed in this seminar include the interrelation of racial ideologies with other cultural and social dimensions, such as class, ethnicity, gender, political and legal structures, and economic influences. At an international scale, policy makers confront the challenge of balancing calls for multicultural tolerance with demands for fundamental human rights. We will also consider the related histories of biological, genetic, and epigenetic concepts of different races within the human species. The seminar includes a major writing project in the form of a seminar paper.

Instructor: Chris Fennell (MA, U. Pennsylvania, 1986; JD, Georgetown U., 1989; Ph.D., U. Virginia, 2003) is Professor of Anthropology & Law at the University of Illinois, and a Visiting Professor of Law, University of Chicago.

This class meets on Wednesdays, 4:00pm to 6:00pm in Classroom F of the Law School, 1111 East 60th Street.

Office Hours: Wednesdays, 1:00pm to 3:00pm; please email me to arrange a time to meet or to chat by remote services. My office is Room 506 in the Law School; cell phone 312-513-2683, and email cfennell@uchicago.edu.

I have created a course web page using the Law School's *Canvas* program. Class participants can access the course web page by logging onto the *Canvas* system for access to the course syllabus, reserve readings, and other online resources.

Course Requirements

No prerequisite courses are required, and this course is designed to enable graduate students to analyze legal structures and to enable law students to understand and apply anthropological theories and concepts in similar studies. Requirements for this seminar include preparation of a research paper and thoughtful class participation. Writing for this seminar may be used as partial fulfillment of the JD writing requirement (SRP or WP).

The Seminar Paper

Your grade will be based primarily (80%) on an original analytic research paper that you complete on a topic of your choosing related to a subject within the scope of racism, law, and the social sciences. Your paper should apply pertinent anthropological concepts and analyses to critically examine the social, legal, or biological issues addressed in your chosen topic.

Schedule for completing the paper:

Project title and abstract (2-3 paragraphs) due:	February 15
Detailed outline due:	February 22
Final paper due:	June 12, 2023 (or April 24 if you are graduating in June 2023)

A final paper submitted late will be reduced by one grading increment for each day of lateness. Late submission on any of the other items will negatively affect your class participation grade. Extensions are of course possible in the case of bona fide emergencies or other compelling circumstances, but these should be addressed before the expiration of the deadline unless circumstances make this impossible.

JD program writing requirement guidelines

With my approval, writing for this seminar may be used as partial fulfillment of the JD writing requirements. To receive writing credit, you will need to check with me at the outset and meet feedback and revision requirements, as well as the specific requirements for the type of writing credit you are seeking. Generally, seminar papers should be at least 20 pages long and are typically 20-30 pages long (6000-8000 words), including footnotes, and double-spaced in a normal font (such as Times New Roman 12 point), with normal margins. If you are seeking SRP writing credit, a full draft of your paper will be due by May 30, 2023 (or by April 11 if you are graduating in June 2023). Students not interested in obtaining SRP or WP credit are invited to submit drafts according to these deadlines but are not required to do so.

Here is an overview of Law School guidelines for these writing requirements, and more information is available **online** --

Substantial Research Paper (SRP)

An SRP is (1) a careful, extensive treatment of a particular topic; (2) certified by a member of the faculty; (3) submitted by a student who has taken advantage of one or more opportunities to respond to suggestions and criticism in producing the paper; and (4) not largely derivative of work undertaken for another academic degree, for a summer job, or in some other environment outside the Law School.

SRPs are typically 20-30 pages (6,000 to 9,000 words) in length, but revisions and opportunities to rework arguments and writing are more important than length. Faculty members certifying such projects must approve the paper topic and agree to supervise the

project prior to the student's undertaking substantial research and writing.

Writing Project (WP)

A student's second, or other, writing project (WP) can, but need not, be of the SRP form. Again, work submitted in satisfaction of either of the two writing requirements may not largely be derivative of work undertaken in pursuit of another academic degree or in a summer job or other environment outside the Law School.

Procedures

Please follow these steps to register for an SRP or a WP: Discuss the project with the faculty member; obtain the faculty member's written consent to supervise the project via his or her signature on a properly completed "Writing Requirement Petition" (available **online**); and submit the form to the Office of the Registrar by the deadline listed in the Academic Calendar (Jan. 13).

Participation

Class participation constitutes 20% of your grade. Barring illness or emergency, you are expected to attend every class session, to have done the reading, and to be ready and willing to discuss.

Class Readings

Texts

Race: Are We So Different? by Alan Goodman, Yolanda Moses, and Joseph Jones. New York: Wiley-Blackwell, 2012.

Skull Wars: Kennewick Man, Archaeology, and the Battle for Native American Identity, by David Hurst Thomas. New York: Basic Books, 2001 (with foreword by Vine Deloria, Jr.).

Articles on Electronic Reserve

The Class Schedule section of this syllabus provides a list of readings and sources for each class, which will be available in the two books listed above or in readings on electronic reserve in *Canvas*. Assigned and suggested articles and chapters on electronic reserve include:

Amnesty International (2013a). *Scapegoats of Fear: Rights of Refugees, Asylum-Seekers, and Migrants Abused in Libya*. London: Amnesty International Ltd.

Amnesty International (2013b). *Human Rights Here, Roma Rights Now: A Wake-up Call to the European Union*. London: Amnesty International Ltd.

Bliss, Catherine (2017). The Meaning of Health Disparities. In *Subprime Health: Debt and Race in U.S. Medicine*, edited by Nadine Ehlers and Leslie R. Hinkson, pp. 107-127. Minneapolis: University of Minnesota Press.

- Channa, Subhadra M. (2005). Metaphors of Race and Caste-Based Discrimination against Dalits and Dalit Women in India. In *Resisting Racism and Xenophobia: Global Perspectives on Race, Gender, and Human Rights*, edited by Faye V. Harrison, pp. 49-66. Walnut Creek, CA: AltaMira Press.
- Cheesman, Nick (2017). How in Myanmar “National Races” Came to Surpass Citizenship and Exclude Rohingya. *Journal of Contemporary Asia* 47(3): 461-483.
- Darity, William A., Jr., Jason Dietrich, and Darrick Hamilton (2005). Bleach in the Rainbow: Latin Ethnicity and Preference for Whiteness, *Transforming Anthropology* 13(2): 103-109.
- Dikötter, Frank (2010). Forging National Unity: Ideas of Race in China. *Global Dialogue* 12(2): 1-11.
- Gomez, James (2010). Politics and Ethnicity: Framing Racial Discrimination in Singapore. *Copenhagen Journal of Asian Studies* 28(2): 103-117.
- Gravlee, Clarence C. (2009). How Race Becomes Biology: Embodiment of Social Inequality. *American Journal of Physical Anthropology* 139: 47-57.
- Hanchard, Michael, and Erin A. Chung (2004). From Race Relations to Comparative Racial Politics: A Survey of Cross-National Scholarship on Race in the Social Sciences. *Du Bois Review* 1(2): 319-343.
- Hollinsworth, David (2010). Racism and Indigenous People in Australia. *Global Dialogue* 12(2): 1-11.
- Jain, Devaki (2005). Finding Strategic Identities in an Unequal World: Feminist Reflections from India. In *Resisting Racism and Xenophobia: Global Perspectives on Race, Gender, and Human Rights*, edited by Faye V. Harrison, pp. 35-45. Walnut Creek, CA: AltaMira Press.
- Kahn, Jonathan (2011). BiDiI and Racialized Medicine. In *Race and the Genetic Revolution: Science, Myth, and Culture*, edited by Sheldon Krimsky and Kathleen Sloan, pp. 129-141. New York: Columbia University Press.
- Kushen, Robert (2010). Intolerant Europe: The Drive against the Roma. *Global Dialogue* 12(2): 1-11.
- Parry, Marc (2017). The Scholars Behind the Quest for Reparations. *Chronicle of Higher Education*, Nov., 33-37.
- Rana, Junaid (2013). Muslims in the Global City: Racism, Islamophobia, and Multiracial Organizing in Chicago. In *Reinventing Race, Reinventing Racism*, edited by John J. Betancur and Cedric Herring, pp. 225-239. Leiden, Netherlands: Koninklijke Brill.

- Santos, Ricardo V., and Marcos C. Maio (2004). Race, Genomics, Identities and Politics in Contemporary Brazil. *Critique of Anthropology* 24(4): 347-378.
- Silverstein, Paul (2005). Immigrant Racialization and the New Savage Slot: Race, Migration, and Immigration in the New Europe. *Annual Reviews in Anthropology* 34: 363-384.
- Sundstrom, Ronald B. (2010). Sheltering Xenophobia. *Global Dialogue* 12(2): 1-8.
- Torpey, John, and Maxine Burkett (2010). The Debate over African American Reparations. *Annual Review of Law and Social Science* 6: 449-467.
- Travassos, Claudia, and David R. Williams (2004). The Concept and Measurement of Race and their Relationship to Public Health: A Review Focused on Brazil and the United States. *Cadernos de Saúde Pública* [Reports on Public Health], Rio de Janeiro 20(3): 660-678.

Class Schedule

Jan. 4 **Course overview.**

The American Anthropological Association confronts race and racism.

Race: Are We So Different? Part 1 (pp. 1–89), race concepts and mismeasures of humanity, inventing whiteness, domains separate and unequal.

Please read this book, published by the American Anthropological Association, with a critical eye. This text is one of the results of a several-million-dollar initiative by the AAA to address issues of race and racism. This multi-disciplinary project received funding support from the Ford Foundation and National Science Foundation, among other organizations. The initiative created a traveling museum presentation of interviews and related exhibits, this book, pedagogical materials, and in-depth web sites. Millions of visitors have engaged with the traveling exhibit at numerous museums nationwide, including the Chicago History Museum.

As we will discuss in class, anthropology is a social science discipline with a great amount to atone for in the history of racism. A variety of scientists who can be categorized as anthropologists contributed to the promotion of racism in the United States in the late 1800s and early 1900s. This first book that we will examine in class provides an overview of biological, legal, and cultural concepts of racial categories, and represents a primary effort by the AAA in addressing the discipline's historical entanglements with systems of racism.

Jan. 11 **Defining race and racism: Broader perspectives on human variation.**

Race: Are We So Different? Part 2 (pp. 91-133), human biological variation, complexions, genomics, and epigenomics.

Gravlee, *How Race Becomes Biology* (2009) (article on electronic reserve).

Jan. 18 **Structural impacts and health disparities**

Bliss, *The Meaning of Health Disparities* (2017) (article on electronic reserve in Canvas).

Kahn, *BiDil and Racialized Medicine* (2011) (article on electronic reserve).

Reparations initiatives and debates

Torpey and Burkett, *The Debate over African American Reparations* (2010) (article on electronic reserve; suggested only).

Parry, *The Scholars Behind the Quest for Reparations* (2017) (article on electronic reserve; suggested only).

Mauro, *Students of History* (2018) (article on electronic reserve; suggested only).

Jan. 25 **Native Americans and struggles for sovereignty and identity.**

Skull Wars: Kennewick Man, Archaeology, and the Battle for Native American Identity, chapters 1-17, names, images, scientific racism, distorted histories, debating migrations to the Americas, 1906 Antiquities Act.

Feb. 1 **Insights from Indigenous struggles**

Skull Wars: Kennewick Man, Archaeology, and the Battle for Native American Identity, chapters 18-24, shape-shifting racism, new assimilation strategies, 1934 Indian Reorganization Act, 1990 Native American Graves Protection and Repatriation Act, and sovereignty struggles.

Hollinsworth, *Racism and Indigenous People in Australia* (2010) (article on electronic reserve), a comparative history of indigenous struggles.

Feb. 8 **Shapeshifting dynamics of racism: From physical phenotypes to racial politics of culture.**

Hanchard and Chung, *From Race Relations to Comparative Racial Politics* (2004) (article on electronic reserve).

Discussion of examples from *How the Irish Became White*, by Noel Ignatiev (2008) and *Anthropology and the Racial Politics of Culture*, by Lee Baker (2010) (suggested readings only)

Overview of issues in debates on human rights and multicultural tolerance.

Feb. 15 **Case studies of racism and discrimination against the Dalits of India and Roma of Europe.**

Channa, *Metaphors of Race and Caste-Based Discrimination against Dalits* (2005)

(article on electronic reserve).

Jain, *Finding Strategic Identities in an Unequal World* (2005) (article on electronic reserve).

Kushen, *Intolerant Europe: The Drive against the Roma* (2010) (article on electronic reserve).

Amnesty International, *Human Rights Here, Roma Rights Now* (2013b) (article on electronic reserve).

Silverstein, *Immigrant Racialization and the New Savage Slot* (2005) (article on electronic reserve).

Deadline: project title and abstract (2-3 paragraphs in length) describing your planned seminar paper (delivery via email).

Feb. 22

Case studies of race, color, and indigeneity in Latin America: Examples from Brazil, Cuba, Dominican Republic, Haiti, Mexico, and Puerto Rico.

Darity, Dietrich, and Hamilton, *Bleach in the Rainbow* (2005) (article on electronic reserve).

Santos and Maio, *Race, Genomics, Identities and Politics in Contemporary Brazil* (2004) (article on electronic reserve).

Travassos and Williams, *The Concept and Measurement of Race and their Relationship to Public Health* (2004) (article on electronic reserve).

Deadline: detailed outline of seminar paper, including citations of sources identified thus far that you intend to use (delivery via email).

Mar. 1

Nationalism, ethnicity, and racism in China, Singapore, and Myanmar.

Dikötter, *Forging National Unity: Ideas of Race in China* (2010) (article on electronic reserve).

Gomez, *Politics and Ethnicity: Framing Racial Discrimination in Singapore* (2010) (article on electronic reserve).

Cheesman, *How in Myanmar “National Races” Came to Surpass Citizenship and Exclude Rohingya* (2017) (article on electronic reserve).

Xenophobia, immigration, and refugee abuses. Concluding observations

Sundstrom, *Sheltering Xenophobia* (2010) (article on electronic reserve; suggested only).

Rana, *Muslims in the Global City* (2013) (article on electronic reserve; suggested only).

Amnesty International, *Scapegoats of Fear: Rights of Refugees, Asylum-Seekers, and Migrants Abused in Libya* (2013a) (article on electronic reserve; suggested only).

Term end Final papers are due on deadlines as indicated

Additional Resources

If you are interested in reading further on particular topics, I have compiled bibliographies of additional print sources and a list of internet resources related to subjects of racism, racialization, social science investigations of legal structures, and social norms. These source lists, with links provided below and available on the *Canvas* page, are not required readings and are provided only as suggested, additional resources should you be interested.

[Sources on Racism, Law, and Social Sciences;](#)

[Sources on Anthropology and Law;](#)

[Sources on Social Norms and Law;](#) and

[Sources on Analysis of Social Group Identities.](#)

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Learning outcomes. After completing this class, I expect that students will: Be familiar with the general approaches to the study of law and legal reasoning; Demonstrate the ability to identify and understand key concepts in substantive law, legal theory, and procedure; Have the ability to write a competent legal analysis; Demonstrate the ability to conduct legal research; Demonstrate communication skills, including oral advocacy; Demonstrate an understanding of the interdisciplinary nature of law and the contributions that other disciplines can make to the study of law.

[Last updated Dec. 7, 2022]